

## REMARKS/ARGUMENTS

This is intended as a full and complete response to the Office Action dated February 19, 2009, having a shortened statutory period for response set to expire on May 19, 2009. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-25, 27, 29-33 and 35-42 are pending in the application and remain pending following entry of this response.

### Claim Rejections - 35 U.S.C. § 103

Claims 1-24, 29-32, 35-38 and 40-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Boros et al.* (U.S. Patent No. 6,654,590, hereinafter, "*Boros*") and *Tellado et al.* (U.S. Publication 2004/0198276, hereinafter, "*Tellado*") further in view of *Hudson* (U.S. Patent No. 7,254,171).

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2141. Establishing a *prima facie* case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that the Examiner has not properly characterized the teachings of the references and/or the claims at issue. Accordingly, a *prima facie* case of obviousness has not been established.

As an example, the Examiner relies on *Boros* as teaching “forming a calibrated downlink channel and a calibrated uplink channel usable between the first subscriber unit and the second subscriber unit using weighted average calibration vector without performing further calibration.” Applicants respectfully submit, however, that *Boros* does not teach calibrating channels usable for peer-to-peer communications, at all. While the Examiner refers to the use of an “average calibration factor” this factor is obtained by performing separate calibration procedures between an access point and multiple stations, and then averaging the factor obtained with the multiple calibration procedures. This is described in col. 19, lines 46-67 cited by the Examiner:

...Another use is for calibrating the base station, but rather than obtaining a single calibration vector using the base station and a single subscriber unit, using several subscriber units to determine the single calibration vector. In one embodiment, the single calibration vector is the average calibration vector. In another embodiment, it is the weighted average calibration vector, the weighting given to the estimate made using a particular subscriber unit dependent on a measure of the quality of the signal received by that subscriber unit, so that estimates from subscriber units having better quality signals are weighed more in the weighted average...

There is no teaching, however, of calibrating channels “usable” for peer-to-peer communications, as recited in claim 1.

The Examiner concedes that *Boros* fails to teach “establishing a direct peer-to-peer communication between the first subscriber set and the second subscriber set” but attempts to rely on a combination of *Tellado* and *Hudson* as teaching this missing element. However, the Examiner’s attempt fails for a number of reasons.

First off, the Examiner refers to paragraphs [0043]-[0046] of *Tellado* as teaching “a method for multiple transmit/receive pairs that establishes communication.” While these paragraphs may indeed teach such a method, it is absolutely silent as to peer-to-peer communications between two subscriber sets (stations), and only teaches communications between a base station and subscriber stations.

Secondly, the Examiner relies on *Hudson* as disclosing “a method for calibrating a peer-

to-peer communication channel using MMSE equalized packet spectrum ratio between the first and second subscriber stations.” Again, Applicants respectfully submit that *Hudson* fails to teach communications between subscriber stations at all. FIG. 6 of *Hudson*, referred to by the Examiner, shows a single subscriber station (608) communicating with multiple access points (612 and 614).

As none of the references, even if combined as suggested in the Office Action, teach calibrating uplink and downlink channels for use in peer-to-peer communications between first and second subscriber sets or establishing peer-to-peer communications between the subscriber sets, as recited in claim 1. Claims 18, 24, 40, 41, and 42 recite similar elements for direct communication between subscriber sets that are not taught in the references.

Therefore, Applicants submit claims 1, 18, 24, 40, 41, and 42, as well as their dependents, are allowable over the art of record and respectfully submit withdrawal of this rejection.

Claims 25 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mesecher et al.* (U.S. Patent No. 6,278,726, hereinafter, “*Mesecher*”) in view of *Hudson*.

Applicants respectfully submit, however, that the Examiner has misconstrued the teaching of these references and, as a result, has failed to ascertain the differences between the teaching of these references and the claims.

For example, the Examiner relies on *Mesecher* as teaching “a receive (RX) spatial processor operative to receive a second pilot on a downlink channel and derive an estimate of a downlink channel response based on the received second pilot, and to receive an estimate of an uplink channel response derived based on the transmitted first pilot; and a controller operative to determine first and second sets of correction factors based on the estimates of the downlink and uplink channel responses, wherein a calibrated downlink channel is formed by using the first set of correction factors for the downlink channel and a calibrated uplink channel is formed by using the second set of correction factors for the uplink channel.”

Applicants respectfully submit, however, that there is no teaching in *Mesecher* of “receiving an estimate of an uplink channel response derived based on the transmitted first pilot” as recited in the claims. While the Examiner refers to column 6, lines 41-67 as teaching this

element, the cited section only teaches utilizing reciprocity, such that weights determined by a base stations receiver are used by its transmitter:

In a system using the same frequency for downlink and uplink signals, such as time division duplex (TDD), an alternate embodiment is used. Due to reciprocity, downlink signals experience the same multipath environment as uplink signals send over the same frequency. To take advantage of reciprocity, the weights determined by the base station's receiver are applied to the base station's transmitter. In such a system, the base station's receiving circuit of FIG. 18 is co-located, such as within a base station, with the transmitting circuit of FIG. 19.

In the receiving circuit of FIG. 18, each antenna 48-52 receives a respective pilot signal sent by the UE. Each pilot is filtered by a RAKE 406-410 and weighted by a weighting device 412-416. The weighted and filtered pilot signals are combined by a combiner 418. Using the error signal generator 420 and the weight adjustment device 422, the weights associated with the weighting devices 412-416 are adjusted using an adaptive algorithm.

The transmitting circuit of FIG. 19 has a data signal generator 342 to generate a data signal. The data signal is spread using mixer 384. The spread data signal is weighted by weighting devices 344-348 as were determined by the receiving circuit of FIG. 19 for each virtual channel.

The circuit of FIG. 20 is used as a data signal receiving circuit at the base station. The transmitted data signal is received by the multiple antennas 48-52. A data RAKE 392-396 is coupled to each antenna 48-52 to filter the data signal

However, there is no teaching of "receiving an estimate of an uplink channel response derived based on the transmitted first pilot" as recited in the claim.

For at least this reason, Applicants submit that claim 25 and claim 27, which depends from claim 25 is allowable and respectfully requests withdrawal of this rejection.

Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

Allowable Subject Matter

Claims 33 and 39 are objected to as being dependent upon a rejected base claim and are indicated as being allowable if re-written in independent form. Applicants thank the Examiner for this determination. However, Applicants do not wish to re-write these claims at this time, as Applicants believe the base claims are allowable for at least the reasons discussed above.

**CONCLUSION**

Therefore, for at least the reasons presented above with respect to all of the pending claims subsequent to entry of this response, Applicants assert that all claims are patentably distinct from all of the art of record. All objections and rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

**Charge Statement:** For this application, the Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account 17-0026.

Respectfully submitted,  
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